

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LANE MYERS,

Plaintiff,

v.

File No. 1:22-cv-00748

CHRISTOPHER WREN, ET AL.,

Defendants.

Hearing

Before

THE HONORABLE PHILLIP GREEN
United States Magistrate Judge
October 17, 2022

APPEARANCES

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WITNESSES:

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None

EXHIBITS:

IDENTIFIED

None

1 Grand Rapids, Michigan

2 Monday, October 17, 2022 - 1:00 p.m.

3 THE COURT: We are, excuse me. We are here in
4 the matter of Lane Myers -- excuse me. Got a little bit of
5 a frog in my throat. We're here in the matter of Lane
6 Myers versus Christopher Wren, et al., case number
7 22-cv-748. This is the date and time set for a Rule 16
8 scheduling conference. Could I have appearance of counsel
9 for the defendants, please.

10 MS. DICKINSON: Yes, your Honor, Leslie
11 Dickinson appearing on behalf of the defendant -- the
12 defendants in this matter. Seated to my right is Mr. Jim
13 Scales. He is an associate at our firm. He's just up here
14 observing today.

15 THE COURT: All right, very good. Good
16 afternoon to you. And I take it you are Mr. Myers?

17 MR. MYERS: Yes, sir. I'm Lane Myers.

18 THE COURT: All right, good afternoon --

19 MR. MYERS: Thank you.

20 THE COURT: -- to you, Mr. Myers. All right, as
21 I understand it, excuse me, this case arises from a no
22 trespass letter that came about as a result of an incident
23 that apparently took place on August 5th. The no trespass
24 letter prohibits Mr. Myers from entering the property of
25 the Newaygo County park, I believe Sandy Beach Park?

1 MR. MYERS: Yes, sir.

2 THE COURT: And Mr. Myers is alleging a number
3 of violations of his constitutional rights.

4 MR. MYERS: Yes, sir.

5 THE COURT: I realize this is a very simplistic
6 explanation of the case, Mr. Myers. Is there anything else
7 you think I need to know?

8 MR. MYERS: You're pretty much, you know, this
9 isn't necessarily the place to get into legal argument.
10 This is --

11 THE COURT: You always stand when you address
12 the Court.

13 MR. MYERS: My apologies.

14 THE COURT: Okay.

15 MR. MYERS: Your Honor, this is not necessarily
16 the place to make legal arguments, but you pretty much
17 summed it up. I believe the letter that was sent to me
18 cites a law that is -- doesn't pass constitutional
19 scrutiny. They define my -- they haven't defined my
20 actions. They just said I'm banned for my actions, and I
21 believe that the actions they've referred to in their
22 incident reports I've got through their e-mails from FOIA,
23 they're -- they're claiming that I -- my -- I'm banned, and
24 I believe that's based on my free speech. So I believe
25 everything I said was protected free speech. All my

1 actions are protected by the Constitution.

2 They obviously see different. I don't know if
3 they see different, but I believe they're -- the people
4 they represent see different.

5 THE COURT: Yep.

6 MR. MYERS: But they represent the people that
7 see different.

8 THE COURT: All right, thank you, Mr. Myers.
9 Appreciate it.

10 Ms. Dickinson, anything else you think I need to
11 know?

12 MS. DICKINSON: Just briefly, your Honor. And
13 as I think we pointed out in our status report that we
14 filed with the court, I do also want to note that we
15 included in that status report, it was filed not as a joint
16 status report, it was filed independently when we scheduled
17 a phone conference with Mr. Myers to prepare that joint
18 status report. Mr. Myers indicated to my co-counsel,
19 Mr. Homier, that he was recording the telephone
20 conversation and that he intended to post the conversation
21 on YouTube, to which, of course, counsel for the defendants
22 did not consent. We terminated the call and filed our own
23 status report for the Court, which includes our statement
24 of the case, as well as the facts and arguments that we
25 believe are relevant to the claims that Mr. Meyer makes in

1 his complaint.

2 MR. MYERS: Myers.

3 MS. DICKINSON: Mr. Myers makes in his
4 complaint. Those claims, in our opinion, include that, and
5 this is going to be filed in tenet with a Rule 11 motion
6 for sanctions, given that Mr. Myers has continued to
7 harass, verbally abuse county employees since he's filed
8 this complaint, including the defendants' counsel, myself
9 and Mr. Homier, as well as the potential witnesses in this
10 case, including Mr. Wright, who was the other biker
11 involved in the situation.

12 I can go into more detail on that, but I think
13 we'll be filing it later.

14 THE COURT: I don't think it's necessary. I did
15 read all that in the joint -- not the joint, your status
16 report. Thank you.

17 MS. DICKINSON: You're welcome. Thank you, your
18 Honor.

19 THE COURT: So Mr. Myers, normally the parties
20 get together ahead of time and they discuss these matters
21 and submit a joint status report. So I -- I'm going to
22 proceed, but I don't have input for you at this point.

23 MR. MYERS: I had one filed also.

24 THE COURT: I'm sorry?

25 MR. MYERS: I filed the joint status report

1 also.

2 THE COURT: All right, I didn't see that.

3 MR. MYERS: Oh, yeah. It's right here. I filed
4 it the same -- the day --

5 THE COURT: Hang on.

6 MR. MYERS: -- it was -- my bad.

7 THE COURT: We're going to look.

8 MR. MYERS: The same day they allege, you know,
9 when I hung -- they hung up on me, I filed one, too. They
10 also didn't participate in a Rule 26(f).

11 THE COURT: Well, I think that's --

12 MR. MYERS: That's before the --

13 THE COURT: -- Rule 26(f) conference is the
14 conference where the parties meet to discuss the joint
15 proposed scheduling.

16 MR. MYERS: Crickets. No responses.

17 THE COURT: Okay. We don't have that,
18 Mr. Myers.

19 MR. MYERS: It was filed. It's on the docket.

20 THE COURT: We're looking at the docket now. We
21 don't see it. Do you have a copy with you?

22 MR. MYERS: I have it, if I had my -- yeah, I do
23 have a copy, your Honor, and --

24 THE COURT: And just the, do you have the ECF
25 number, the docket number that it was filed under?

1 MR. MYERS: I -- I filed it down at the clerk
2 on -- on October 10th within 14, you know, within the days
3 that it said on there that it had to be filed by. I filed
4 it on -- I filed it the day it was due.

5 THE COURT: Okay.

6 MR. MYERS: Because they sent, prior to that
7 phone call, they sent me their proposed, you know, their --
8 what they -- like they sent me an e-mail showing what they
9 were going to file, and then we were supposed to have a
10 phone call in an hour and talk about it, but they had a lot
11 of misrepresentations about me on the thing they sent me,
12 so told them I'd be recording it because I would need to --
13 it's me, by myself. I don't have a law firm. I'm going to
14 need to go back and fill in 13 things here, so I'm going to
15 look at it. And yeah, I'm going to play it. It's public.
16 This whole case is public.

17 THE COURT: Okay.

18 MR. MYERS: I know they don't have to
19 participate at that point, but it doesn't make the case go
20 any smoother.

21 THE COURT: Okay. So we -- we don't show this.

22 DEPUTY CLERK: Well, we do. It was titled
23 something really different, that's the problem.

24 THE COURT: Okay. So we do see that you did
25 file this, Mr. Myers.

1 MR. MYERS: It's titled joint status report.

2 THE COURT: Yeah. I'm going to give this back
3 to you, since we do have that. You did file that.

4 MR. MYERS: Thank you.

5 THE COURT: And thank you for showing that to me
6 so we could figure out --

7 MR. MYERS: Yep.

8 THE COURT: -- apparently it was titled
9 something different.

10 MR. MYERS: I gave them a copy, too.

11 THE COURT: Okay. It was titled something
12 different on the docket, and that's why we didn't -- we
13 didn't see it.

14 Okay, so let's -- what I want to do today is
15 simply talk about proposed schedule going forward, okay?
16 We're not -- this is not the time to make substantive
17 arguments, but rather to simply get a scheduling order
18 issued.

19 Now Mr. Myers, one of the things I need to raise
20 with you, and but I want to preface what I'm saying by
21 emphasizing in no way am I trying to convince you one way
22 or the other, all right? But I need to explain to you that
23 this case is assigned to District Judge Paul Maloney. He
24 was appointed by the president of the United States and
25 confirmed by the senate, and he serves a lifetime tenure,

1 means he can never be fired, no matter what he does, he
2 keeps his job, he keeps his salary.

3 MR. MYERS: Your Honor, just to -- my
4 girlfriend's a law clerk --

5 THE COURT: Okay.

6 MR. MYERS: -- for a federal judge.

7 THE COURT: All right, good.

8 MR. MYERS: I'm aware of everything.

9 THE COURT: Okay, well, that's good. But I need
10 to make sure to explain something to you because I need a
11 decision from you. But I'm not trying to influence you.

12 MR. MYERS: I understand you, you want to try to
13 make it go smoother with the judge versus the magistrate.
14 There's some things that by agreeing to the magistrate,
15 legal remedies and stuff I give up, and as far as you can
16 hear the, you know, motions and different appeals and
17 things like that --

18 THE COURT: All I need to know is whether you
19 consent or not. I don't need to know your reasons.

20 MR. MYERS: A judge.

21 THE COURT: Okay.

22 MR. MYERS: Thank you.

23 THE COURT: So the case will stay with Judge
24 Maloney.

25 MR. MYERS: Thank you.

1 THE COURT: All right. Let's look at, now
2 Mr. Myers asserts this is a jury trial. I don't believe
3 that's contested. Is it, Ms. Dickinson?

4 MS. DICKINSON: Yes, your Honor. To the extent
5 that the -- that the case involves claims that are either
6 equitable or injunctive relief in nature.

7 THE COURT: There are some claims going to the
8 jury.

9 MS. DICKINSON: Correct. To be --

10 THE COURT: That's all I need to know --

11 MS. DICKINSON: Yes.

12 THE COURT: -- at this point, yeah.

13 MS. DICKINSON: To the extent that there is
14 damage claims, we would consent to a jury trial.

15 THE COURT: The only reason I'm raising it is
16 because we put in the case management order jury so that
17 they'll schedule it as a jury trial.

18 MR. MYERS: There's an amended complaint being
19 filed by the end of the week that's going to add damages.

20 THE COURT: Mr. Myers, you need to wait --

21 MR. MYERS: My bad.

22 THE COURT: -- I'll give you --

23 MR. MYERS: My bad. My bad.

24 THE COURT: -- a chance to speak.

25 MR. MYERS: I just thought it helped their --

1 THE COURT: Please sit down right now. All
2 right. Now Ms. Dickinson, I know you indicated you thought
3 the trial would last about a day, from your perspective.
4 Mr. Myers, have -- I realize that you're not an attorney,
5 at least I don't think you are. Do you have a sense of how
6 long you think the trial will take?

7 MR. MYERS: I put three, because up to this
8 point I've seen no cooperation, so I have no idea how, you
9 know, and for --

10 THE COURT: Okay.

11 MR. MYERS: -- I'm just -- I'm leaving myself a
12 margin for error.

13 THE COURT: Okay. I think that's reasonable.

14 MR. MYERS: Yep.

15 THE COURT: And I'm going to put, I think --

16 MR. MYERS: It really should take less.

17 THE COURT: I agree. Yeah, I agree. All right,
18 now Mr. Myers, I believe you've indicated that you wish to
19 file a motion to amend your complaint.

20 MR. MYERS: Yes, sir.

21 THE COURT: Is that correct?

22 MR. MYERS: Yes.

23 THE COURT: How soon can you file that motion?

24 MR. MYERS: By the end of the week. It's going
25 to be a Monell claim, a retaliation 1983 equal protection

1 First Amendment, Fourth Amendment, Fifth Amendment, 14 and
2 it's going to include the municipalities under Monell
3 individuals, and it's going to include damages. Because up
4 to this point I thought we could settle this with a
5 handshake, but -- and there's no damages on my claim.

6 THE COURT: Okay. All right. So you -- you
7 expect to file that by the end of this week?

8 MR. MYERS: Yes, sir.

9 THE COURT: I just have to put a deadline for
10 you to file your motion. I think I'll use --

11 MR. MYERS: Are you talking about specifically
12 for the amended complaint or all motions?

13 THE COURT: No. This is just for --

14 MR. MYERS: Okay.

15 THE COURT: -- an amended complaint.

16 MR. MYERS: Yeah. I will have you that by the
17 end of the week guaranteed. Maybe even in the next day or
18 two.

19 THE COURT: Okay, that's -- that's fine. I'm
20 going to allow a little bit of foot factor in there, okay?
21 You can file it whenever you want.

22 MR. MYERS: I understand. No, I see what you're
23 saying.

24 THE COURT: But I -- but I'm going to put a
25 deadline of --

1 MR. MYERS: I want it before the preliminary
2 injunction.

3 THE COURT: -- the 21st. Is that next Friday,
4 Angie? Am I --

5 DEPUTY CLERK: The 28th.

6 THE COURT: 28th, all right? So you have until
7 October 28th --

8 MR. MYERS: Thank you, sir.

9 THE COURT: -- to file.

10 MR. MYERS: Like I said, it will probably be
11 done by Wednesday.

12 THE COURT: Okay. 26(a)(1) disclosures,
13 defendant indicated the end of October. Does October 31st
14 work for you, Mr. Meyers?

15 MR. MYERS: Yes, sir.

16 THE COURT: All right, that's what we'll use.

17 MR. MYERS: This specifically for the 26.

18 THE COURT: This is 26(a)(1) disclosures.

19 MR. MYERS: Yes, sir.

20 THE COURT: Yeah, that, if you look at Federal
21 Rule of Civil Procedure 26(a)(1) --

22 MR. MYERS: Yep.

23 THE COURT: -- what's listed there --

24 MR. MYERS: Yep.

25 THE COURT: Okay.

1 MR. MYERS: They've seen the -- they've -- I've
2 disclosed everything from day one.

3 THE COURT: Good. All right, I don't need to
4 know what you've done so far --

5 MR. MYERS: Oh, I feel ya.

6 THE COURT: -- but I'm just setting deadlines,
7 all right? And that still works for you, Ms. Dickinson --

8 MS. DICKINSON: Yes, your Honor.

9 THE COURT: -- for your client?

10 MS. DICKINSON: Thank you.

11 THE COURT: All right. Mr. Myers do you
12 anticipate calling an expert witness in this case?

13 MR. MYERS: As of right now -- as of right now,
14 sir, I do not, but I left a little bit of a window open in
15 case something pops up in discovery here, if they turn it
16 over.

17 THE COURT: Okay. That's fine. What was the --

18 MR. MYERS: On mine it's -- I put January 31st,
19 but truly I don't think it's going to even get to this
20 level of trial and all that. So, yeah, I'm cool with
21 whatever you -- you know, I'm flexible.

22 THE COURT: All right. Here's what I'm going to
23 do, Mr. Myers. I'm going to put your deadline for
24 disclosing expert as December 31.

25 MR. MYERS: Thank you, sir.

1 THE COURT: And then defendants will have until
2 January, give me a, does the 30th or 31st of January work?

3 DEPUTY CLERK: January 30.

4 THE COURT: January 30th for defendant to
5 identify expert. Do you see any need to have -- to require
6 experts to write a written report, Mr. Myers?

7 MR. MYERS: I'm the expert.

8 THE COURT: Okay. And I take it you don't
9 either, Ms. Dickinson?

10 MS. DICKINSON: No, your Honor. Thank you.

11 THE COURT: All right. So expert reports will
12 not be required. I need to set a deadline for completing
13 all discovery. In light of the fact that I'm giving
14 defendant until the end of January to identify expert, I
15 would be inclined to go to the end of February for a close
16 of discovery. Is that enough time, do you think,
17 Ms. Dickinson? Because I recognize sometimes it's
18 difficult, and I don't know that either side's going to
19 have an expert at the end of the day, but I have to assume
20 that there will be one when I'm setting deadlines. So my
21 only concern would be if I set the close of discovery at
22 the end of February, is that realistically enough time to
23 schedule expert depositions?

24 MS. DICKINSON: Yes, your Honor. I, again, I
25 don't anticipate there's going to be any experts, but I

1 think even in light of the fact that there may be, I think
2 the end of February should be sufficient.

3 THE COURT: Can you live with that, Mr. Myers?
4 In other words to have all discovery be completed by the --

5 MR. MYERS: I was --

6 THE COURT: -- end of --

7 MR. MYERS: I was asking for March 31st, because
8 they have shown no -- I -- I mean, they've shown no
9 inclination to cooperate in any way, shape, or form, so I
10 can't, you know, that's a short time. And typically you
11 get six months.

12 THE COURT: Yep. You're right about that.

13 Okay, you --

14 MR. MYERS: But I'm willing to -- I'm willing to
15 give them two weeks. You know I'm -- I'm willing to start
16 the trial tomorrow, but like they're not, so we need go
17 with how much time they're going to need to produce this
18 stuff.

19 THE COURT: Mr. Myers, you've made a good point.

20 MR. MYERS: Thank you.

21 THE COURT: And that is we generally give about
22 six months for discovery, and so I will allow that. So we
23 will put the end of March. Angie --

24 DEPUTY CLERK: 31.

25 THE COURT: -- is the -- okay, so end of

1 discovery March 31 of next year. Typically dispositive
2 motions deadline's about 30 days thereafter. Does that
3 work for you, Ms. Dickinson?

4 MS. DICKINSON: Yes, your Honor. Thank you.

5 THE COURT: All right. So then that would be
6 end of April.

7 DEPUTY CLERK: April 28.

8 THE COURT: April 28. The presumptive limits on
9 discovery will apply. That is 25 Interrogatories, 10
10 depositions, 25 requests for admissions. The rules do not
11 have a presumptive limit on request for documents, but I am
12 going to impose a limit here of 25 requests for documents
13 per side. Any objection to that, any of those,
14 Ms. Dickinson?

15 MS. DICKINSON: No, your Honor. In fact we
16 would probably request a limit on that, you know, on our
17 own accord, so thank you.

18 THE COURT: All right. Mr. Myers, any objection
19 to that?

20 MR. MYERS: Could you just clarify that that's
21 not 25 pieces of paper, that's 25 individual requests,
22 which may contain more than one request in them?

23 THE COURT: Well, I'm glad you asked that
24 question, so I'm happy to clarify. It doesn't mean 25
25 pieces of paper. It does mean 25 requests. So you

1 can't -- you can't get around the limit by saying, well,
2 number one and then you've got A, B, C, D, with a whole
3 bunch of different --

4 MR. MYERS: Okay.

5 THE COURT: -- discovery document requests. So
6 each --

7 MR. MYERS: So each request, one request.

8 THE COURT: That's correct.

9 MR. MYERS: Thank you.

10 THE COURT: But a request for documents may call
11 for more than one --

12 MR. MYERS: Document.

13 THE COURT: -- document.

14 MR. MYERS: So I might request multiple
15 documents, but I can't request multiple documents A, then
16 more in B, right, okay, each.

17 THE COURT: Yes. Let me just, and to give you
18 an example of a case that's different than this. Let's
19 assume this was a traffic accident and one of the
20 defendants was the police department that investigated the
21 traffic accident. A discovery request, a document request
22 could be to provide all police reports from that agency
23 relating to the traffic accident. Might be a hundred
24 reports, but that's one document request. Does that help
25 you?

1 MR. MYERS: Absolutely. I have FOIAs going,
2 too, so I'm fighting a front over there, too, so --

3 THE COURT: Okay. Well, I won't worry about the
4 FOIA requests at this point.

5 MR. MYERS: That's what I mean. That's helping
6 me get discovery that won't --

7 THE COURT: Okay.

8 MR. MYERS: -- require me to use discovery
9 requests.

10 THE COURT: Okay.

11 MR. MYERS: Because it's readily available, so
12 you want to be able to use that and not take up the Court's
13 time.

14 THE COURT: Okay.

15 MS. DICKINSON: I just wanted to place on the
16 record, your Honor, that we would reserve any right to file
17 a motion for protective order under Rule 26(c), given the
18 nature of any potential discovery requests that Mr. Myers
19 may file. I'm just putting the Court on notice and placing
20 it on the record that that may be something that the
21 defendants might need to do going forward.

22 THE COURT: And why do you anticipate the need
23 for that?

24 MS. DICKINSON: Based on the history and levels
25 of harassment of the plaintiff against the county, against

1 the county's attorneys, and other potential witnesses in
2 this trial, I anticipate the need for a protective order,
3 given the level of e-mails and harassment --

4 THE COURT: Well, that --

5 MS. DICKINSON: -- going forward.

6 THE COURT: That reminds me of another issue,
7 Ms. Dickinson. Who -- who are you representing? Who are
8 your clients?

9 MS. DICKINSON: So we represent the Christopher
10 Wren, the three defendants. It's Christopher Wren, who is
11 the county's administrator, and then two county sheriff's
12 department employees. One is a sheriff and the other is a
13 deputy.

14 MR. MYERS: That's not true.

15 THE COURT: Hang on. I'll give you a chance to
16 speak in a minute. Has he attempted to contact any of your
17 clients?

18 MS. DICKINSON: Not to my knowledge. Oh, well,
19 he has contacted directly employees of the county, and
20 based on his e-mails and correspondence with us and other
21 representatives from the county, he has indicated that he
22 intends to file, add additional defendants to this claim,
23 including, but not limited to all, the entire county board
24 of commissioners, the entire county parks and recreation
25 committee, the other biker in this case, Mr. Wright, who we

1 do not represent, but have had contact with in relation to
2 this matter, Consumer's Energy, I'm not sure where they
3 come into play, but --

4 MR. MYERS: They own the land.

5 MS. DICKINSON: But it is my understanding that
6 he will likely be adding more defendants, which, you know,
7 our argument is that that is --

8 THE COURT: Well, we'll cross that bridge --

9 MS. DICKINSON: Correct.

10 THE COURT: -- when we come to it. My concern
11 is simply, I want to make sure that Mr. Myers understands
12 that even as a pro se litigant --

13 MS. DICKINSON: Correct.

14 THE COURT: -- that he is not to contact someone
15 who is represented by a lawyer.

16 MS. DICKINSON: Correct.

17 THE COURT: You have to go through that person's
18 lawyer. But I'm a little concerned, Ms. Dickinson. I'm
19 not sure that your client includes everybody that works for
20 the county.

21 MS. DICKINSON: Currently we represent the three
22 defendants in the matter.

23 THE COURT: Okay.

24 MS. DICKINSON: Newaygo County is a client of
25 our law firm. They're not parties -- the entire county is

1 not a party to this case.

2 THE COURT: So I see nothing yet that suggests
3 that he's barred from contacting county employees.

4 MS. DICKINSON: Correct.

5 THE COURT: Okay.

6 MS. DICKINSON: Correct.

7 THE COURT: That's all I care about at this
8 point.

9 MS. DICKINSON: Eventually it probably will come
10 to that.

11 THE COURT: It could change, yeah. It may
12 change.

13 MS. DICKINSON: Yes.

14 THE COURT: I just want you to be aware,
15 Mr. Myers, in case you're not, that parties to lawsuits, to
16 the extent they are represented by a lawyer, the other side
17 has to always go through the lawyer. You can't contact
18 directly the party. You have to go through the lawyer.

19 MR. MYERS: Specific to the lawsuit.

20 THE COURT: Yes.

21 MR. MYERS: But I can contact an elected
22 official and talk about matters that are going on in the
23 county.

24 THE COURT: I'm not going to comment about
25 anything --

1 MR. MYERS: That's what she's talking about.

2 THE COURT: Okay. I'm not going to comment
3 about anything that's not before me. I'm simply telling
4 you that anyone who is a party to this case and is
5 represented by counsel, you would go through counsel.

6 MR. MYERS: Specific to this case only.

7 THE COURT: Yes.

8 MR. MYERS: Thank you.

9 THE COURT: Well, I don't -- I don't know.
10 There may be other reasons why --

11 MR. MYERS: Well, I mean if they're like the
12 zoning coordinator, I'm still allowed to contact them about
13 the zoning and stuff, right?

14 THE COURT: Well, I don't -- if you had another
15 case pending --

16 MR. MYERS: No, no cases. No, just like I live
17 in the area.

18 THE COURT: All right, thank you. I think we've
19 addressed that.

20 MR. MYERS: All right, thank you.

21 THE COURT: Thank you.

22 MR. MYERS: Yep.

23 THE COURT: All right. As for alternative
24 dispute resolution, Judge Maloney will require the parties
25 to go through VFM, and you are to select a mediator from

1 the panel, approved panel here at the court. If you want
2 to use somebody that's not on the panel, you'll need to
3 file a motion to that effect.

4 Ms. Dickinson, from your perspective, I have to
5 put a deadline by which VFM must be completed. Not the
6 date you do it, but the deadline by which it must be done.
7 What would you recommend?

8 MS. DICKINSON: I would typically recommend that
9 it would be done upon completion of the close of discovery,
10 so we would say March 31st?

11 THE COURT: I think I'll move it up a bit.

12 MS. DICKINSON: Okay.

13 THE COURT: Perhaps the end of February. Do you
14 know -- understand what we're talking about, Mr. Myers?

15 MR. MYERS: Absolutely. We could do it Friday.

16 THE COURT: Okay. Well, I'm going to say the
17 deadline is February, last day of February. I'm sorry?

18 DEPUTY CLERK: 28th.

19 THE COURT: 28 is the deadline by which it must
20 be done. And just so that you're aware, the reason we put
21 those deadlines in the case management order is that tells
22 the Clerk's Office, they put a tickler in so that if
23 they've not received a report from the voluntary
24 facilitative mediator by that deadline, they're going to
25 start contacting you and saying what's going on here, why

1 haven't you got this scheduled.

2 All right, now Judge Maloney will not allow a
3 case to go to trial without also going through a settlement
4 conference with me. So I'll just let you know, when you
5 get the case management order, you're going to see a date
6 and time for a settlement conference with me. That date
7 and time is going to be approximately 60 days pretrial. So
8 what will happen is when I finish the case management
9 order, talking to you with this, my staff will contact
10 Judge Maloney's staff and get a trial date from him. Just
11 be aware the trial date is usually about six months after
12 the dispositive motion deadline. So if we've got the end
13 of April for dispositive motion deadline, you're looking at
14 probably the earliest trial date would be sometime in
15 December of next year, probably January of 2024.

16 That's how -- and keep in mind, that seems like
17 a long -- six months seems like a long time between
18 dispositive motion deadline and a trial date. We need that
19 much time, realistically. Because first of all it takes
20 seven to eight weeks just to complete the briefing on a
21 dispositive motion. We need to give Judge Maloney time to
22 work on it, okay? Believe it or not, he's got other cases
23 besides this one pending, okay? So he has a very -- and he
24 has a very full trial docket. So we need to have that much
25 time.

1 I mention that just so that you're aware, but
2 also to keep in mind that if there's good cause that we
3 need to extend time to complete something, the Court will
4 consider it, but it's not going to do it lightly. So and
5 good cause means something has come up that you could not
6 have anticipated today. So it's not good cause to say,
7 well, we're really busy and we need more time. You should
8 assume that you're very busy. I hope you're all very busy.
9 It's good to be busy. That's not good cause for extending
10 anything. A sickness or something like that could be. But
11 so I'm just -- I just share that with you.

12 I think sometimes parties think, ah,
13 particularly they think, well, if we agree to extend a
14 deadline, the court will go along with it. Do not assume
15 that.

16 MR. MYERS: We don't agree on anything.

17 THE COURT: Well, I understand. But I'm saying
18 even if you do, do not assume the -- you still have to get
19 the Court's approval, and you will not get that without
20 establishing good cause. So just -- just a word to the
21 wise.

22 All right, is there any -- the seven hour limit
23 will apply for depositions, by the way. Anything else,
24 Ms. Dickinson, from your perspective that we need to
25 discuss by way of scheduling?

1 MS. DICKINSON: No, your Honor. I think we're
2 all set. Thank you.

3 THE COURT: Okay, Mr. Myers, same question.

4 MR. MYERS: Can you clarify, ma'am, is it the
5 28th or 30th of April for the dispositive motions?

6 THE COURT: I believe I said the 28th.

7 MR. MYERS: 28th.

8 THE COURT: Of April, yes. Ms. Dickinson, do
9 you anticipate the need for a protective order in this
10 case?

11 MS. DICKINSON: Eventually, yes, your Honor.
12 Once we get into more formalized discovery, yes.

13 THE COURT: All right.

14 MR. MYERS: Are they -- is that -- can you
15 clarify? Does that protect me from releasing the stuff
16 they give me?

17 THE COURT: It depends.

18 MR. MYERS: Okay.

19 THE COURT: It could.

20 MR. MYERS: I think that's what they're worried
21 about.

22 THE COURT: Okay, well, Mr. Myers, a protective
23 order isn't -- that's a term that describes a wide range
24 of --

25 MR. MYERS: Because I certainly --

1 THE COURT: -- things.

2 MR. MYERS: -- never threatened them.

3 THE COURT: It is not uncommon in cases for the
4 parties to enter into a protective order. And the
5 protective order would set out what the limits or
6 restrictions are. I only bring it up now because if both
7 parties said, no, we don't need a protective order, I would
8 spare you my sermonettes on protective orders.

9 MR. MYERS: I'm a hundred percent transparent.

10 THE COURT: Well, that's fine. You could -- you
11 can be seated --

12 MR. MYERS: Thank you.

13 THE COURT: -- Mr. Myers. I'm going to give you
14 my sermonettes on protective orders. And seriously what it
15 is are things to keep in mind. I'm trying to help you
16 avoid unnecessary work and also me unnecessary work,
17 because I get proposed protective orders that have
18 provisions the Court will not approve and then I have to
19 send it back to you and you've got to redo it. So some
20 common mistakes that the parties make.

21 First of all, please do not put anything in the
22 protective order that suggests that the Court will retain
23 jurisdiction over it after the case is closed. The Court
24 will not do that.

25 Please try to be as specific as you can about

1 what documents or information are covered by the protective
2 order. To the extent the protective order makes any
3 reference to sealing any documents, it must make clear that
4 the parties have read and understand the provisions of
5 local Rule 10.6. This protective order will not authorize
6 the sealing of anything. So nobody can file a motion to
7 seal a document simply citing the protective order.

8 Local Rule 10.6(a) sets out the district's
9 policy about sealing documents. In a nutshell, we don't
10 like sealing anything. You have to establish good cause to
11 seal a document, and that's a fairly high standard.

12 The Court will never seal an entire motion or
13 entire brief. That's never happened. When it comes to a
14 dispositive motion, the standards for getting anything
15 sealed is exceedingly high. In eight and a half years on
16 the bench, I've never seen anyone meet the standard to get
17 anything sealed that's related to a dispositive motion.
18 And certainly, nobody should expect any trial exhibit to be
19 sealed.

20 One area that creates potential problems for the
21 Court is that there's a protective order in place and a
22 party will produce a document, stamp it subject to the
23 protective order. The receiving party now wants to file
24 that document for some reason. So then I get a motion
25 seeking leave to file that document under seal, and the

1 only bases, good cause stated, is that the other side
2 stamped it subject to the protective order. Well, I'm not
3 going to seal a document on that basis. The simple
4 solution would be to deny the motion, but I'm reluctant to
5 do that because there may be good cause why that should be
6 sealed, but I don't know what it is. So when that happens,
7 I have to issue an order holding the motion in abeyance
8 requiring the moving party to get from the producing party
9 a statement of good cause. Just keep that in mind. If
10 that situation arises, contact the other side, remind them
11 you have cranky Judge Green who doesn't like sealing
12 anything. Tell them I need your statement of good cause.
13 They'll tell you, and you just put it in your motion, and
14 then I can deal with it.

15 Another area of problems arises, occasionally I
16 get a protective order that purports to establish this
17 jurisdiction, this Court's jurisdiction on third parties
18 simply by virtue of the fact that the party has received a
19 copy of a document subject to the protective order. That
20 won't happen, that doesn't happen, and the Court won't sign
21 a protective order that purports to do that. If you want a
22 third party to be subject to the jurisdiction of this Court
23 and to be subject to the provisions of the protective
24 order, you have to give a copy of the protective order to
25 the third party, along with the form allowing that person

1 to decide whether they consent to it. If they consent to
2 be bound, fine. If they don't, then you can choose not to
3 give them the document. But simply giving them a document
4 doesn't make them subject to this Court's jurisdiction, nor
5 does it make him subject to the provisions of the
6 protective order.

7 Ms. Dickinson, any questions about any of that?

8 MS. DICKINSON: No, your Honor. Thank you.

9 THE COURT: All right, you're welcome.

10 Mr. Myers, any questions about that?

11 MR. MYERS: Sounds like an expensive waste of
12 time.

13 THE COURT: Okay. Well --

14 MR. MYERS: For them.

15 THE COURT: Maybe. Anything else that we need
16 to discuss, Ms. Dickinson?

17 MS. DICKINSON: I don't think so, your Honor.
18 Like I said, I mentioned prior -- earlier that we do intend
19 to file a Rule 11 motion for sanctions yet this week. It's
20 been served on Mr. Myers --

21 THE COURT: All right.

22 MS. DICKINSON: -- several weeks ago, so I just
23 wanted to make the Court aware that that was likely going
24 to be coming next week.

25 THE COURT: Are you going to file that before he

1 files his motion to amend the complaint?

2 MS. DICKINSON: I'm not sure when he intends to
3 file his motion to amend. Our --

4 THE COURT: Well, he said it would be this week.

5 MS. DICKINSON: Yep. Our 21 day -- I don't
6 anticipate the amendments to his complaint are going to
7 change the nature of our motion for sanctions, but our 21
8 day safe harbor period is up on Wednesday, so.

9 THE COURT: Okay. Well, but presumably, you
10 file a motion for Rule 11 sanctions, he files a motion for
11 amended complaint, the Court has to decide whether to grant
12 the motion for the amended complaint. If the Court grants
13 that motion, you're going to -- your Rule 11 sanction
14 motion is going to be mooted out.

15 MS. DICKINSON: Well, I, like I said --

16 THE COURT: You'll have to then file a new
17 motion, presumably for the amended --

18 MR. MYERS: Start the 21 days over, all of that.

19 THE COURT: Hang on, Mr. Myers. Wouldn't you
20 have to then file a new motion for sanctions based on the
21 amended complaint?

22 MS. DICKINSON: Again, I don't anticipate the
23 amended complaint is going to change the nature of our
24 request for sanctions under our motion. Certainly not
25 given what has occurred since we served him with our

1 motion, our proposed Rule 11 motion. I believe he's even
2 filed a response to that already, which our Rule 11 motion
3 hasn't been filed yet because we're under the 21 day safe
4 harbor period. But I am very confident that his amended
5 complaint is not going to change the arguments that we've
6 set forth --

7 THE COURT: Okay.

8 MS. DICKINSON: -- in our Rule 11 motion.

9 THE COURT: Okay, well, we'll deal with it in
10 due course.

11 MS. DICKINSON: Sure.

12 THE COURT: We'll deal with it in --

13 MR. MYERS: Definitely going to change it
14 significantly.

15 THE COURT: Okay. Mr. Myers, anything else from
16 your perspective that we should discuss at this time?

17 MR. MYERS: Their lack of cooperation.

18 THE COURT: Remember you have to stand when you
19 address the Court.

20 MR. MYERS: It's been 60 days and I haven't
21 received a -- a substantiated response from this law firm
22 that represents these clients yet.

23 THE COURT: A response to what?

24 MR. MYERS: Anything.

25 THE COURT: Well, this --

1 MR. MYERS: All I received is a Rule 11 threat,
2 threat of a Rule 11 saying that my lawsuit's frivolous when
3 it's clearly not frivolous and they're going to stand on
4 that --

5 THE COURT: Well, Mr. Myers, the way it works is
6 you make a discovery request.

7 MR. MYERS: Uh-huh.

8 THE COURT: And they have a period of time to
9 respond. If they don't or if you believe they've not fully
10 responded, then you'd need to consult with the other side
11 to work it out between you.

12 MR. MYERS: There's no communication.

13 THE COURT: And if you can't do that, then you
14 file a motion to compel.

15 MR. MYERS: Thank you.

16 THE COURT: But this Court can only deal with
17 motions, written motions that are filed with the Court.

18 MR. MYERS: So if I call, e-mail --

19 THE COURT: And you can't -- you can't seek
20 to -- you can't compel -- you can't seek to compel
21 something you haven't first requested in discovery.

22 MR. MYERS: I've definitely requested it.

23 THE COURT: All right. Well, I don't know about
24 that. And typically -- you can't -- you can't send
25 discovery requests before the Rule 26(f) conference. So I

1 don't know whether you sent a discovery request or not.
2 We'll deal with it. But if you want the Court to address
3 anything, you need to file a written motion.

4 MR. MYERS: So moving forward, is the proper way
5 to, you know, work in this case is it to contact the law
6 firm and then say, "This is what I would like to discuss,"
7 and then they contact me back?

8 THE COURT: Well, you would -- you would serve a
9 formal discovery request, okay? So you would type up your
10 Interrogatories or your document request, and you would
11 serve them -- are you accepting service through e-mail?

12 MS. DICKINSON: Yes, your Honor.

13 THE COURT: All right, so you have their e-mail
14 address. You would e-mail them at this -- then you also
15 need to file with the court a certificate of service. You
16 don't file with the court the request that you made, you
17 simply fill out a certificate of service that says on this
18 date I served plaintiffs first request for production of
19 documents to defendants. That's what gets filed with --
20 with the court, okay?

21 MR. MYERS: Yep. And I -- just, when you get
22 the Rule 11, I would prefer oral arguments also. I don't
23 know if I've indicated that on my response.

24 THE COURT: We'll address that when we get to
25 it.

1 MR. MYERS: Thank you.

2 THE COURT: Yes. I think it's --

3 MR. MYERS: I'm going to file a Rule -- I'm
4 planning to file a Rule 11 against them, too, using their
5 Rule 11 as the basis for mine.

6 THE COURT: All right. Somehow I get the sense
7 that I may be spending significant amounts of time on this
8 case, at least in the near term. Well, that's all right.
9 That's what I get paid to do and I'm happy to --

10 MR. MYERS: You'll enjoy it.

11 THE COURT: I would say, Mr. Myers, it is likely
12 that I would have oral argument on a motion of that nature.

13 MR. MYERS: Awesome.

14 THE COURT: I can't promise you, but it's
15 likely.

16 MR. MYERS: So I actually go to -- I'm supposed
17 to be in Arizona already. Is it possible to appear by
18 computer?

19 THE COURT: If you file a motion. By video.

20 MR. MYERS: Once you -- once you order a court
21 day, then file the motion requesting to appear for that
22 specific court date?

23 THE COURT: Yes.

24 MR. MYERS: Thank you.

25 THE COURT: Yes, that's typically how it's done.

1 If you would file a motion asking permission to participate
2 by Zoom, by video, stating your reasons, and the Court will
3 look at that.

4 MR. MYERS: Is this the -- the gentleman down at
5 the gate when you come in told me that I would be able to
6 request the opportunity to bring my laptop and stuff like
7 that in. Is that something I file with you?

8 THE COURT: Yes.

9 MR. MYERS: A motion to --

10 THE COURT: You file it with the --

11 MR. MYERS: -- request to bring electronic --

12 THE COURT: You file it with the --

13 MR. MYERS: -- into building or something?

14 THE COURT: Yes. Yeah, that's -- it's something
15 you file with the court.

16 MR. MYERS: Clerk. Clerk.

17 THE COURT: I want to be clear.

18 MR. MYERS: No, that's what I'm saying, right.

19 Right.

20 THE COURT: Now I think this is a generally
21 referred case. And what that means, as a practical matter,
22 Mr. Myers, is any motion that gets filed automatically
23 comes to me to be decided. If you're -- if a party thinks
24 I made a mistake, then you can appeal to Judge Maloney.

25 MR. MYERS: That's why I wanted to keep the

1 judge, right.

2 THE COURT: Okay? If it's a dispositive issue,
3 meaning it's an issue that would put an end to the case,
4 then I would prepare what's known as a report and
5 recommendation to Judge Maloney. Each side would then have
6 14 days to file objections to my report and
7 recommendations.

8 So this is Judge Maloney's case. I do what he
9 asks me to do. But I will tell you in pro se cases,
10 generally, they are generally referred, which means any
11 motion that gets filed automatically comes to me.

12 MR. MYERS: Any man of the court, woman of the
13 court can handle this case.

14 THE COURT: All right, thank you. Anything
15 further, Ms. Dickinson?

16 MS. DICKINSON: No, your Honor. Thank you.

17 THE COURT: Mr. Myers?

18 MR. MYERS: (No verbal response.)

19 THE COURT: All right thank you both.

20 DEPUTY CLERK: Court is adjourned.

21 (At 1:36 p.m., proceedings concluded.)

22 -oo0oo-

CERTIFICATE OF REPORTER

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

I, Bonnie L. Rozema, CER, do hereby certify that this transcript, consisting of 40 pages, is a complete, true, and accurate transcript, to the best of my ability from the audio recordings of the proceedings and testimony held in this case on October 17, 2022.

I do further certify that I prepared the foregoing transcript.

/s/ Bonnie L. Rozema

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Notary Public in and for
Kent County, Michigan
My commission expires:
March 26, 2025
Acting in the County of Kent